



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220325-0078; RTID 0648-XC939]

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; 2023

Closure of the Northern Gulf of Maine Scallop Management Area to the Limited Access General Category Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the Northern Gulf of Maine Scallop Management Area for the remainder of the 2023 fishing year for Limited Access General Category vessels. Regulations require this action once NMFS projects that 100 percent of the Northern Gulf of Maine Set-Aside will be harvested. This action is intended to prevent the overharvest of the 2023 Northern Gulf of Maine Set-Aside.

DATES: Effective 0001 hr local time, April 21, 2023, through March 31, 2024.

FOR FURTHER INFORMATION CONTACT: Louis Forristall, Fishery Management Specialist, (978) 281-9321.

SUPPLEMENTARY INFORMATION: The regulations governing fishing activity in the Northern Gulf of Maine (NGOM) Scallop Management Area are located in 50 CFR 648.54 and 648.62. These regulations authorize vessels issued a valid Federal scallop permit to fish in the NGOM Scallop Management Area under specific conditions, including the NGOM Set-Aside for the 2023 fishing year, and a State Waters Exemption Program for the State of Maine and Commonwealth of Massachusetts. Section 648.62(b)(2) requires the NGOM Scallop Management Area to be closed to scallop vessels issued Federal Limited Access General Category (LAGC) scallop permits, except

as provided below, for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that 100 percent of the NGOM Set-Aside is projected to be harvested. Any vessel that holds a Federal NGOM (LAGC B) or Individual Fishing Quota (IFQ) (LAGC A) permit may continue to fish in the Maine or Massachusetts state waters portion of the NGOM Scallop Management Area under the State Waters Exemption Program found in § 648.54 provided it has a valid Maine or Massachusetts state scallop permit and fishes only in that state's respective waters.

Based on trip declarations by federally permitted LAGC scallop vessels fishing in the NGOM Scallop Management Area and analysis of fishing effort, we project that the 2023 NGOM Set-Aside will be harvested as of April 21, 2023. Therefore, in accordance with § 648.62(b)(2), the NGOM Scallop Management Area is closed to all federally permitted LAGC scallop vessels as of April 21, 2023. As of this date, no vessel issued a Federal LAGC scallop permit may fish for, possess, or land scallops in or from the NGOM Scallop Management Area after 0001 local time, April 21, 2023, unless the vessel is fishing exclusively in state waters and is participating in an approved state waters exemption program as specified in § 648.54. Any federally permitted LAGC scallop vessel that has declared into the NGOM Scallop Management Area, complied with all trip notification and observer requirements, and crossed the vessel monitoring system demarcation line on the way to the area before 0001, April 21, 2023, may complete its trip and land scallops. This closure is in effect until the end of the 2023 scallop fishing year, through March 31, 2024.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it

would be contrary to the public interest and impracticable. NMFS also finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons noted below. The NGOM Scallop Management Area opened for the 2023 fishing year on April 1, 2023. The regulations at § 648.60(b)(2) require this closure to ensure that federally permitted scallop vessels do not harvest more than the allocated NGOM Set-Aside. NMFS can only make projections for the NGOM closure date as trips into the area occur on a real-time basis and as activity trends appear. As a result, NMFS can typically make an accurate projection only shortly before the set-aside is harvested. The rapid harvest rate that has occurred in the last 2 weeks makes it more difficult to project a closure well in advance. To allow federally permitted LAGC scallop vessels to continue taking trips in the NGOM Scallop Management Area during the period necessary to publish and receive comments on a proposed rule would result in vessels harvesting more than the 2023 NGOM Set-Aside for the NGOM Scallop Management Area. This would result in excessive fishing effort in the area thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures to make up for the excessive harvest. Also, the public had prior notice and full opportunity to comment on this closure process when we solicited comments during rulemaking for 2023 NGOM management provisions (88 FR 19559, April 3, 2023).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 19, 2023.

Kelly Denit,

Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.